THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.1541 of 2007

Dated:06.03.2007

Between:

Gundlapalli Sankar Goud and others.

...PETITIONERS

AND

The District Collector, Medak, and others.

...RESPONDENTS

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.1541 of 2007

ORDER:

The four petitioners allege that they are in possession of land admeasuring Ac.1.30 gts in survey No.71 and Ac.1.12 gts and Ac.1.30 gts in survey No.71/3 situated at China Thimmapur, Mulugu Mandal, Medak District. It is also alleged that the father of petitioners 2 and 3 was assigned land in survey No.71 by proceedings dated 10.05.1970 whereas petitioner No.1 is allegedly in possession of the land in survey No.71/3. They also allege that third respondent, namely, the Mandal Revenue Officer (MRO) issued a certificate on 13.01.2003 to that effect besides the petitioners obtained pattadar passbooks (PPBs) and necessary pahanies. It appears that a board was erected near the land to the effect that the same was Government land and the petitioners also allege there is apprehension of dispossession by the respondents. Therefore, they seek a writ of Mandamus directing the respondents not to interfere with their possession of the land totally admeasuring Acs.4.32 cts in survey Nos.71 and 71/3.

At the stage of admission itself, MRO filed a counter-affidavit. The gist of the same is as follows. Survey No.71 is Government land and land admeasuring Acs.8.07 gts in said survey number was assigned to

M/s Bangari Narsaiah, Gundlapally Ramagound, Golla Rajamallaiah, Vangala Ramaswamy. These assignees alienated the property to M/s Smt. G.Varalaxmi, G.Krishna Rao and G.Venkat Ratnam. Therefore, MRO initiated action under the provisions of the Andhra Pradesh

Assigned Lands (Prohibition of Transfers) Act, 1977 (the Act, for brevity) and by proceedings No.B/381/1992 dated 08.06.1993 ordered resumption of the land. The possession was taken over and the petitioners are not in possession of the property. The allegations that the petitioners are in possession of the land, that they were issued PPBs, that they dug bore wells in the land and that they had no notice of resumption of the land are denied. It is further stated that as per the Pahanies for the years
2005-2006 and 2006-2007 the land is recorded as kariz khatha. It is also alleged that the petitioners are trying to grab the Government land.

The petitioners filed reply-affidavit asserting that they are in physical possession of the land and are cultivating the same. They also filed third party affidavits in proof of their allegation that they are in possession of the land.

The matter was initially heard on 26.02.2007. As resumption proceedings are disputed by the learned counsel for the petitioners, this Court directed the learned Assistant Government Pleader for Revenue to produce the records. Today the records are produced. This Court has perused the records. The same would show that MRO initiated action under the Act and issued notices to the purchasers who are found to be in occupation of the assigned land. Subsequently proceedings dated 08.03.1993 were issued ordering resumption. However, the learned counsel for the petitioners submits that no resumption order was passed and no copy of the same is served on the petitioners. Secondly she submits that as per the third party affidavits, the petitioners are very much in possession of the land. This cannot be accepted.

A perusal of the third party affidavit filed by Chakali Rajaiah, resident of same Village would show that the petitioners were assigned land along with him in 2004. The other third party affidavit is also to the same effect. When petitioners 2 and 3 claimed that the land was assigned to their father in 1970, it is very curious that the third party affidavits are filed to the effect that the land was assigned to the petitioners in 2004. Secondly petitioners 2 and 3 never claimed assignment in their favour, but the deponents of third party affidavits assert that the land was assigned to them in 2004. Viewed from any angle, no credence can be given to the third party affidavits brought in by the petitioners. After perusing the records, this Court is convinced that the respondents followed due process of Law before evicting the petitioners. Therefore, this Court cannot hold that the petitioners are in

possession of the land.

It is the last submission of the learned counsel for the petitioners that even if the land was resumed from the assignees/alienees for contravening the provisions of the Act, the assignees are entitled for restoration of the land. If the petitioners claim to be the legal representatives of the assignees and are eligible as on today, it is always open to them to approach the appropriate authority for restoration of the land to them. In this writ petition, no such relief can be granted. The writ petition is, therefore, dismissed with costs.

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(V.V.S.RAO, J)

06th March, 2007
ghn